

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JAMES E. WOOTEN,

Plaintiff,

v.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Defendant.

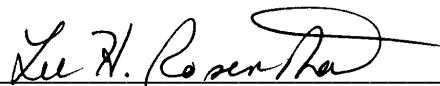
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CIVIL ACTION NO. H-09-4021

ORDER

James E. Wooten sued his insurer, State Farm Mutual Automobile Insurance Company, in Texas state court, seeking uninsured motorist benefits. (Docket Entry No. 1-1). State Farm timely removed based on diversity jurisdiction. (Docket Entry No. 1). In his state-court petition, Wooten sought a declaratory judgment, economic damages, noneconomic damages, punitive or exemplary damages, attorneys' fees and expenses, interest, and costs of suit. (Docket Entry No. 1-1 at 10). State Farm moved for partial summary judgment that under Texas law, Wooten cannot recover punitive damages under the underinsured motorist provision. (Docket Entry No. 5). Wooten responded by filing an amended complaint. (Docket Entry No. 7). Wooten's amended complaint does not seek recovery of punitive damages. (*Id.* at 7). Because Wooten no longer seeks punitive damages, State Farm's motion for partial summary judgment is moot.

SIGNED on May 18, 2010, at Houston, Texas.



Lee H. Rosenthal
United States District Judge